

The Commonwealth of Massachusetts

JOURNAL OF THE HOUSE.



TUESDAY, JUNE 30, 2009.

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JOURNAL OF THE HOUSE.

Tuesday, June 30, 2009.

Met according to adjournment at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Gracious God, we turn our thoughts and attention to You for a moment of personal reflection and a prayer for guidance in our personal affairs and in legislative matters. We believe that Your assistance enables us to comprehend more clearly even the most sensitive and complex issues which come before us. In the process of our decision-making actions, teach us to listen to the reasoned and thoughtful concerns of constituents. We also pray for the wisdom, the courage and the good sense to remain faithful to our high ideals, solid principles and our human and spiritual values. When we disagree on issues let our disagreements be on principles and on the manner of promoting the common good. Inspire us to continue our united struggle to improve the quality of life, equal employment opportunities and a stable economy for all citizens.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Prayer.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

*Message from the Governor — General Appropriation Bill Returned
with Disapprovals, Reductions and Amendments.*

A message from His Excellency the Governor returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items, and also with recommendation of amendment of certain sections contained in the engrossed Bill making appropriations for the fiscal year 2010 for the maintenance of the departments, board, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements [see House, No. 4129] (for message, see House, No. 4139), filed in the office of the Clerk subsequent to adjournment of the preceding sitting, was read.

General
Appropriation
Bill,—
disapprovals,
reductions and
amendments.

So much of the message as relates to the disapprovals and reductions was referred, under Rule 30, to the committee on Ways and Means.

So much of the message as relates to the sections returned with recommendation of amendments were referred, as follows:

Section 5 — Printed as House, No. 4140;

Section 21 — Printed as House, No. 4141;

Section 22 — Printed as House, No. 4142;
Sections 31 and 40 — Printed as House, No. 4143;
Section 66 — Printed as House, No. 4144;
Section 76 — Printed as House, No. 4145;
Section 87 — Printed as House, No. 4146;
Section 105 — Printed as House, No. 4147;
Section 112 — Printed as House, No. 4148;
Section 121 — Printed as House, No. 4149;
Section 130 — Printed as House, No. 4150;
Section 132 — Printed as House, No. 4151;
Section 133 — Printed as House, No. 4152;
Section 144 — Printed as House, No. 4153; and
Section 146 — Printed as House, No. 4154;

Severally, on motion of Mr. Pedone of Worcester, to the committee on Bills in the Third Reading.

Message from the Governor.

A message from His Excellency the Governor submitting recommendations for making appropriations for the fiscal year 2010 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4155), was filed in the office of the Clerk subsequent to adjournment of the preceding sitting.

Supplementary appropriations.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Ways and Means.

Statement Concerning Representative Garry of Dracut.

A statement of Mrs. Haddad of Somerset concerning Miss Garry of Dracut, was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Miss Garry of Dracut, will not be present in the House Chamber for today's sitting, due to illness. Any roll calls that she may miss today is due entirely to the reason stated.

Statement concerning Miss Garry of Dracut.

Guests of the House.

During the Session,— the Speaker declared a brief recess and introduced Brianna Marie Bostick who was recently crowned Miss Massachusetts' Outstanding Teenager, 2009. Brianna attends Coyle & Cassidy High School and lives in East Taunton section of the city of Taunton. Brianna was accompanied by her parents, Maria and Mike Bostick. They were the guests of Representatives Haddad of Somerset, Fagan of Taunton and Canessa of New Bedford.

Brianna Marie Bostick.

The Speaker then introduced Jack Gilbride, a second grader at the Holy Name School in West Roxbury, who had recently been hailed as a hero following a fire in his family's home. On May 24 of this year, in the middle of the night, a 2 alarm fire ripped through the Gilbride family home in the Roslindale section of the city of Boston. Seven year old Jack was

Jack Gilbride.

the first person in the home to smell smoke; he then woke up his family, all of whom escaped safely. Jack was accompanied by his parents, John and Deborah and his sister Theresa. They were the guests of Representative Rush of Boston.

Resolutions.

Resolutions (filed with the Clerk by Messrs. Rice of Gardner, DiNatale of Fitchburg, Naughton of Clinton and Evangelidis of Holden) celebrating the fiftieth anniversary of the Fitchburg Longsjo Classic, were referred, under Rule 85, to the committee on Rules.

Fitchburg,-
Longsjo Classic.

Mr. Binienda of Worcester, for the committee on Rules, reported that the resolutions ought to be adopted. Under suspension of the Rules, on motion of Mr. Pedone of Worcester, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Reports of Committees.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Petition (accompanied by bill) of Todd M. Smola and Stephen M. Brewer for legislation to establish a sick leave bank for Crystal Pollack, and employee of the Department of Mental Retardation;

Crystal Pollack,—
sick leave
bank.

Petition (accompanied by bill) of Todd M. Smola and Stephen M. Brewer for legislation to establish a sick leave bank for Dolores Tower, an employee of the Department of Mental Health; and

Dolores Tower,—
sick leave
bank.

Petition (accompanied by bill) of Todd M. Smola and Stephen M. Brewer relative to the appointment of the treasurer of Palmer Fire District Number One and Palmer Water District Number One;

Palmer,—
fire and water
districts.

Severally to the committee on Public Service.

Under suspension of the rules, on motion of Ms. Walz of Boston, the report was considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Orders of the Day.

House bills

Authorizing the city of Gardner to convey certain park land (House, No. 612);

Authorizing the city of Woburn to convey certain land (House, No. 1112);

Authorizing an odd-numbered board of library trustees not to exceed nine members in the town of Boxford (House, No. 3707);

Approving the town of Nantucket to use, sell, convey or otherwise dispose of certain land situated in the town of Nantucket for any lawful purpose (House, No. 3816);

Relative to the Dukes County Land Bank (House, No. 4043);

Second
reading
bills.

To amend the charter of the town of Dedham to clarify the method of organizing town agencies (House, No. 4096);

Relative to the Falmouth Historic District Commission (House, No. 4104); and

Authorizing the town of Nantucket to grant, sell, convey or otherwise dispose of Muskeget Island situated in the town of Nantucket and acquired for the purposes of a public park (House, No. 4134);

Severally were read a second time; and they were ordered to a third reading.

Recess.

At twenty-two minutes after eleven o'clock A.M., on motion of Mr. Kafka of Stoughton (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at that time the House was called to order with the Speaker in the Chair.

Recess.

Quorum.

Mr. Fagan of Taunton thereupon asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 141 members were recorded as being in attendance.

Quorum roll call,—
yea and nay
No. 160.

[See Yea and Nay No. 160 in Supplement.]

Therefore a quorum was present.

Retirement of House Counsel Louis Rizoli.

Mr. Binienda of Worcester, for the committee on Rules, then reported that the resolutions (filed by Speaker DeLeo of Winthrop and Mr. McMurtry of Dedham), having been referred to said committee, under Rule 85, congratulating Louis Rizoli on the occasion of his retirement as Counsel to the House of Representatives, ought to be adopted.

House Counsel
Louis Rizoli.

Under suspension of the rules, on motion of Mr. McMurtry, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered, as follows:

“Whereas, The esteemed Louis Rizoli is retiring from his position as House Counsel after a lifetime of dedicated service to his community and the Commonwealth, and will be honored on June 30, 2009; and

Resolutions of the
House.

Whereas, Louis Rizoli met his wife, Connie, while working in the State House and they are the proud parents of Becky and Lisa and loving grandparents of Rachel; and

Whereas, Louis Rizoli, born in Milford, graduated from the College of the Holy Cross and later received his Juris Doctorate from Suffolk Law School where he currently teaches; and

Whereas, The virtues and accomplishments of Louis Rizoli in his service to the Commonwealth are extensive and a source of pride for his

family, friends, co-workers, and community; and

Whereas, Louis Rizoli began his work in public service as research director for the Joint Committee on Banks and Banking and in 1976 was appointed Assistant Attorney General in the Executive Bureau; and

Whereas, in 1986, Louis Rizoli continued his commitment to the Commonwealth as General Counsel to House Speaker Keverian and was the first non-legislator and youngest appointee to the position of Counsel to the House of Representatives; and

Whereas, Louis Rizoli continued in this important position under five House Speakers and after twenty three years of outstanding, devoted service, he is the longest serving House Counsel and is recognized as an expert in ethics and campaign finance laws; and

Whereas, In 1996, Louis Rizoli filed an Amicus Brief to the Supreme Judicial Court of Massachusetts which was cited by the Court ensuring that a certain initiative did not appear on the ballot; and

Whereas, Many have benefited from the tireless efforts of Louis Rizoli and he has distinguished himself during his long and meritorious service to the Commonwealth; therefore be it

Resolved, That the Massachusetts House of Representatives hereby congratulates Louis Rizoli on the occasion of his retirement as Counsel to the House of Representatives, and further extends its sincere best wishes for his continued happiness and success; and be it further

Resolved, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to Louis Rizoli.”.

On the question on adoption of the resolutions, the sense of the House was taken by yeas and nays, at the request of Mr. Pedone of Worcester; and on the roll call 146 members voted in the affirmative and 0 in the negative.

Resolutions
adopted,—
yea and nay
No. 161.

[See Yea and Nay No. 161 in Supplement.]

Therefore resolutions were unanimously adopted.

The Speaker then remarked movingly of the distinguished service to the House of Representatives and the Commonwealth of Mr. Rizoli. The Speaker then introduced Mr. McMurtry of Dedham who read, and presented to Mr. Rizoli, the above cited resolutions of the House. Mr. Rizoli, who was accompanied by his wife, Connie, then addressed the House. During his eloquent remarks, at his request, the members, guests and employees stood in a moment of silent tribute to former Speaker George Keverian, who had first appointed him to the position of House Counsel.

Mr. Rizoli then departed from the House Chamber, under escort of the Sergeant-at-Arms.

Recess.

At seventeen minutes before two o'clock P.M., the Speaker declared a recess, until half past two o'clock; and at twenty-one minutes before three o'clock P.M., the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Recess.

Quorum.

Mr. O’Flaherty of Chelsea thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 149 members were recorded as being in attendance.

[See Yea and Nay No. 162 in Supplement.]

Therefore a quorum was present.

Quorum.

Quorum roll call,—
yea and nay
No. 162.

Orders of the Day.

Prior to the noon recess,— the Senate Bill providing for the uniform prudent management of institutional funds (Senate, No. 2078, amended) was read a second time; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. O’Flaherty of Chelsea, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

After remarks on the question on passing the bill to be engrossed, in concurrence, Mr. Pedone of Worcester moved to amend it by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith, provide for uniform prudent management of institutional funds, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

The amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. O’Flaherty; and on the roll call 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 163 in Supplement.]

Therefore the bill (Senate, No. 2078, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

Non-profits,—
fund management.

Bill passed to
be engrossed,—
yea and nay
No. 163.

Papers from the Senate.

The Senate Bill transferring county sheriffs to the Commonwealth (Senate, No. 2045), came from the Senate with the endorsement that said branch had non-concurred with the House in its amendments (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 1153, printed as amended; and by inserting before the enacting clause the following emergency preamble:

“Whereas, the deferred operation of this act would tend to defeat its purpose, which is to transfer forthwith county sheriffs to the commonwealth, therefore it is hereby declared to be an emergency law,

County sheriffs.

necessary for the immediate preservation of the public convenience.”).

The bill bore the further endorsement that the Senate had appointed a committee of conference on the disagreeing votes of the two branches; and that Senators Joyce, Brewer and Brown had been appointed the committee on the part of said branch.

Conference committee.

On motion of Mr. Walsh of Lynn, the House insisted on its amendment; and concurred with the Senate in the appointment of a committee of conference. Representatives Walsh of Lynn, Murphy of Burlington and Frost of Auburn then were appointed the committee on the part of the House.

Id.

Sent to the Senate to be noted.

The Senate Bill mobilizing economic recovery in the Commonwealth (Senate, No. 2061, amended), came from the Senate with the endorsement that said branch had concurred with the House in its amendment (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4128), with a further amendment, striking out all after the enacting clause (inserted by amendment by the House) and inserting in place thereof the text contained in Senate document numbered 2101.

Economic recovery.

Under suspension of Rule 35, on motion of Mr. Murphy of Burlington, the further amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith.

After remarks on the question on concurring with the Senate in its further amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 152 members voted in the affirmative and 0 in the negative.

House concurred in Senate further amendment,—yea and nay No. 164.

[see Yea and Nay No. 164 in Supplement.]

Therefore the House concurred with the Senate in its further amendment.

Recess.

Mr. Donato of Medford being in the Chair,— at twenty-eight minutes after four o'clock P.M., on motion of Mr. Cabral of New Bedford, the House recessed subject to the call of the Chair; and at twenty-nine minutes before six o'clock, the House was called to order with Mr. Donato in the Chair.

Recess.

Emergency Measures.

The engrossed Bill mobilizing economic recovery in the Commonwealth (see Senate, No. 2061, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Economic recovery.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 2 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the

Bill enacted.

emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and Senate to the Senate.

The engrossed Bill providing for the uniform prudent management of institutional funds (see Senate, No. 2078, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Non-profits,—
fund management.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 2 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and Senate to the Senate.

Bill enacted.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet on Thursday next at eleven o'clock A.M.

Next
sitting.

At seventeen minutes before six o'clock P.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Thursday at eleven o'clock A.M., in an Informal Session.